

105TH CONGRESS
1ST SESSION

H. R. 211

To amend the Internal Revenue Code of 1986 to assure continued health insurance coverage of retired workers.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. KLECZKA (for himself, Mr. STARK, Mr. BARRETT of Wisconsin, Ms. MCKINNEY, Mr. WAXMAN, Mr. HILLIARD, Mr. KILDEE, Mr. SANDERS, Mr. MARTINEZ, Mr. EVANS, Mr. MANTON, Mr. LAFALCE, Mr. PALLONE, Ms. NORTON, Ms. SLAUGHTER, Mrs. CLAYTON, Mr. LEWIS of Georgia, Mr. COYNE, Mr. CLAY, Ms. DELAURO, and Mr. RANGEL) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Commerce and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to assure continued health insurance coverage of retired workers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Health Care Assurance
5 for Retired Employees Act of 1997”.

1 **SEC. 2. ADVANCE NOTICE OF MATERIAL REDUCTIONS IN**
2 **COVERED SERVICES UNDER GROUP HEALTH**
3 **PLANS.**

4 (a) ADVANCE NOTICE.—

5 (1) IN GENERAL.—Section 104(b)(1) of the
6 Employee Retirement Income Security Act of 1974
7 (29 U.S.C. 1024(b)(1)) is amended—

8 (A) by redesignating subparagraphs (A)
9 and (B) as clauses (i) and (ii), respectively;

10 (B) by striking “(1) The administrator”
11 and inserting “(1)(A) The administrator”;

12 (C) by striking “The administrator” the
13 second place it appears and inserting the follow-
14 ing:

15 “(B) The administrator”;

16 (D) by striking “If there is a modification”
17 and inserting the following:

18 “(C) If there is a modification”; and

19 (E) by adding at the end the following new
20 subparagraph:

21 “(D) Notwithstanding subparagraph (C), a summary
22 description of any material modification described in sec-
23 tion 102(a)(1) that is a reduction in covered services or
24 benefits provided in the case of a group health plan (as
25 defined in section 706(a)(1) relating to retiree health ben-
26 efits shall be furnished to participants and beneficiaries

1 not later than 180 days before the effective date of the
2 modification. In any case in which an individual first be-
3 comes a participant under a group health plan during any
4 such 180-day period with respect to such a modification
5 or (in the case of any other beneficiary under the plan)
6 first receives benefits under the plan during such 180-day
7 period, the requirements of the preceding sentence may
8 be met by providing the summary description of such
9 modification not later than the date on which such individ-
10 ual first becomes a participant or such other beneficiary
11 first receives benefits under the plan.”.

12 (2) DETERMINATION BY SECRETARY.—Section
13 104 of the Employee Retirement Income Security
14 Act of 1974 (29 U.S.C. 1024) is further amended by
15 redesignating subsection (d) as subsection (e) and by
16 inserting after subsection (c) the following new sub-
17 section:

18 “(d) A material modification described in section
19 102(a)(1) that is a reduction in covered services or bene-
20 fits provided in the case of a group health plan (as defined
21 in section 706(a)(1)) relating to retiree health benefits
22 that is subject to the requirements of subsection (b)(1)(D)
23 may not take effect until after 6 months after the Sec-
24 retary receives written notice of the modification from the
25 administrator and after the Secretary determines that

1 such modification does not violate the plan, including col-
 2 lective bargaining agreements. The determination of
 3 whether any such modification constitutes such a violation
 4 shall be made by the Secretary during such 6-month pe-
 5 riod, and any such modification shall be deemed not to
 6 be effective until the Secretary issues such determination.
 7 Any such determination shall be treated as a final order
 8 subject to review under section 502(k).”.

9 (3) ADVANCE NOTICE TO SECRETARY.—Section
 10 104(a)(1)(D) of the Employee Retirement Income
 11 Security Act of 1974 (29 U.S.C. 1024(a)(1)(D)) is
 12 amended by inserting before the period the follow-
 13 ing: “, or in the case of any such modification that
 14 is a reduction in covered services or benefits pro-
 15 vided in the case of a group health plan relating to
 16 retiree health benefits, not later than 180 days be-
 17 fore the effective date of such modification.”.

18 (4) CIVIL PENALTY.—Section 502(c)(1) of such
 19 Act (29 U.S.C. 1132(c)(1)) is amended by striking
 20 “or section 101(e)(1)” and inserting “, section
 21 101(e)(1), or section 104(b)(1)(D)”.

22 (b) ENFORCEMENT.—

1 (1) REQUIREMENTS.—Section 4980B of the In-
2 ternal Revenue Code of 1986 is amended by redesignig-
3 nating subsection (g) as subsection (h) and by in-
4 serting after subsection (f) the following new sub-
5 section:

6 “(g) NOTICE OF MODIFICATION IN HEALTH BENE-
7 FITS.—

8 “(1) IN GENERAL.—A group health plan meets
9 the requirements of this subsection, in the case of a
10 material modification described in section 102(a)(1)
11 of the Employee Retirement Income Security Act of
12 1974 that is a reduction in covered services or bene-
13 fits provided in the case of a group health plan (as
14 defined in section 706(a)(1)) of such Act) relating to
15 retiree health benefits, if—

16 “(A) the plan sponsor complies with sec-
17 tion 104(b)(1)(D) of such Act; and

18 “(B) such modification takes effect only
19 after the Secretary of Labor makes the deter-
20 mination required by section 104(d) of such Act
21 that such modification does not violate the plan,
22 including collective bargaining agreements.

23 “(2) NONCOMPLIANCE PERIOD.—For the pur-
24 poses of subsection (b), the noncompliance period
25 with respect to this subsection shall be determined

1 without regard to paragraph (2)(B)(ii) of subsection
 2 (b).”.

3 (2) CONFORMING AMENDMENTS.—

4 (A) Subsection (a) of section 4980B of
 5 such Code is amended by striking “subsection
 6 (f)” and inserting “subsections (f) and (g)”.

7 (B) Clause (iv)(II) of section
 8 4980B(f)(2)(B) of such Code is amended by
 9 striking “subsection (g)(1)(D)” and inserting
 10 “subsection (h)(1)(D)”.

11 (c) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply with respect to plan years ending
 13 after August 1, 1996.

14 **SEC. 3. CONTINUATION OF COVERAGE FOR PERSONS 55**
 15 **AND OLDER UNTIL ELIGIBLE FOR MEDICARE.**

16 (a) IN GENERAL.—Section 4980B(f)(2) of the Inter-
 17 nal Revenue Code of 1986 is amended by adding at the
 18 end the following:

19 “(F) COVERAGE FOR PERSONS 55 AND
 20 OLDER UNTIL ELIGIBLE FOR MEDICARE.—In
 21 the case of a covered employee who has attained
 22 the age of 55 before a qualifying event de-
 23 scribed in paragraph (3)(B)—

24 “(i) in no event shall the period of
 25 continued coverage under subparagraph

1 (B)(i) with respect to such event end be-
 2 fore the applicable date under subpara-
 3 graph (B)(iv), and

4 “(ii) the premium requirements for
 5 any period of continuation of coverage sole-
 6 ly by reason of clause (i) shall by deter-
 7 mined by substituting ‘110 percent’ for
 8 ‘102 percent’ in subparagraph (C)(i), un-
 9 less the last sentence of subparagraph (C)
 10 otherwise applies.”.

11 (b) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply with respect to plan years ending
 13 after August 1, 1996.

14 **SEC. 4. PROTECTIONS UNDER THE MEDICARE PROGRAM**
 15 **FOR RETIRED WORKERS WHO LOSE RETIREE**
 16 **HEALTH BENEFITS.**

17 (a) NO PREMIUM PENALTY FOR LATE ENROLL-
 18 MENT.—The second sentence of section 1839(b) of the So-
 19 cial Security Act (42 U.S.C. 1395r(b)) is amended by in-
 20 serting “and not pursuant to a special enrollment period
 21 under section 1837(i)(4)” after “section 1837”).

22 (b) SPECIAL MEDICARE ENROLLMENT PERIOD.—

23 (1) IN GENERAL.—Section 1837(i) of such Act
 24 (42 U.S.C. 1395p(i)) is amended by adding at the
 25 end the following new paragraph:

1 “(4)(A) In the case of an individual—

2 “(i) who at the time the individual first satisfies
3 paragraph (1) or (2) of section 1836—

4 “(I) is enrolled in a group health plan de-
5 scribed in section 1862(b)(1)(A)(v) by reason of
6 the individual’s (or the individual’s spouse’s)
7 current employment or otherwise, and

8 “(II) has elected not to enroll (or to be
9 deemed enrolled) under this section during the
10 individual’s initial enrollment period; and

11 “(ii) whose continuous enrollment under such
12 group health plan is involuntarily terminated at a
13 time when the enrollment under the plan is not by
14 reason of the individual’s (or the individual’s
15 spouse’s) current employment,

16 there shall be a special enrollment period described in sub-
17 paragraph (B).

18 “(B) The special enrollment period referred to in sub-
19 paragraph (A) is the 6-month period beginning on the date
20 of the enrollment termination described in subparagraph
21 (A)(ii).”.

22 (2) COVERAGE PERIOD.—Section 1838(e) of
23 such Act (42 U.S.C. 1395q(e)) is amended—

24 (A) by inserting “or 1837(i)(4)(B)” after
25 “1837(i)(3)” the first place it appears, and

1 (B) by inserting “or specified in section
2 1837(i)(4)(A)(i)” after “1837(i)(3)” the second
3 place it appears”.

4 (c) PROVIDING FOR MEDIGAP OPEN ENROLLMENT
5 PERIOD.—Section 1882(s)(2)(A) of such Act (42 U.S.C.
6 1395ss(s)(2)(A)) is amended—

7 (1) by inserting “(i)” after “during”, and

8 (2) by inserting before the period at the end the
9 following: “or (ii) in the case of an individual who
10 enrolls in part B pursuant to a special enrollment
11 period provided under section 1837(i)(4), the 6-
12 month period beginning with the first month as of
13 the first day of which the individual is enrolled
14 under part B pursuant to such enrollment”.

15 (d) EFFECTIVE DATE.—

16 (1) IN GENERAL.—Subject to paragraph (2),
17 the amendments made by this section shall take ef-
18 fect on the date of the enactment of this Act and
19 apply to involuntary terminations of coverage under
20 a group health plan occurring on or after August 1,
21 1996.

22 (2) TRANSITION.—In the case of an involuntary
23 termination of coverage under a group health plan
24 that occurred during the period beginning on August
25 1, 1996, and ending on the date of the enactment

1 of this Act, the special enrollment period under sec-
2 tion 1837(i)(4)(B) of the Social Security Act (as
3 amended by subsection (b)) is deemed to begin as of
4 the date of the enactment of this Act.

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